

LAWRENCE COUNTY COMMISSIONERS MEETING – July 27, 2021 page-1

Chairman Richard Sleep called the regular meeting of the Lawrence County Commissioners to order and the Pledge of Allegiance was conducted at 8:00 a.m. on July 27, 2021 in the Administrative Annex Building of the Lawrence County Courthouse located at 90 Sherman Street, Deadwood, SD with Commissioners Randall Rosenau, Randy Deibert, Brandon Flanagan and Robert Ewing present.

All motions were passed by unanimous vote, by all members present, unless stated otherwise.

AGENDA: Moved-Seconded (Deibert-Rosenau) to approve the agenda as amended. Motion Carried.

DECLARE CONFLICTS: Commissioner Deibert had a conflict with the 9:15 a.m. Amended Master Plan/Keating Resources.

MINUTES: Moved-Seconded (Rosenau-Deibert) to approve the minutes of July 13, 2021 County Commission meeting. Motion Carried.

PERSONNEL:

SHERIFF: Moved-Seconded (Rosenau-Ewing) to approve Aric Homola as a part-time fill-in Correctional Officer I G1 at a base rate of \$19.26 an hour, effective July 12, 2021. Motion Carried.

Moved-Seconded (Rosenau-Sleep) to approve Christopher Luna as a full-time permanent Correctional Officer I G1 at a base rate of \$19.26 an hour, effective July 20, 2021. Motion Carried.

Moved-Seconded (Deibert-Flanagan) to approve Nathaniel Eriksen as a full-time permanent Correctional Sergeant G1 at a base rate of \$21.92 an hour, effective July 27, 2021. Motion Carried.

Moved-Seconded (Deibert-Flanagan) to approve Chelsea Lindsey as a full-time permanent Correctional Sergeant G1 at a base rate of \$21.92 an hour, effective July 27, 2021. Motion Carried.

STATE’S ATTORNEY: Moved by Rosenau to approve Janelle Madsen as a full-time permanent Administrative Secretary G1 at a base rate of \$17.35 an hour, effective August 4, 2021. Motion died due to lack of second.

Moved-Seconded (Deibert-Rosenau) to table Janelle Madsen as a full-time permanent Administrative Secretary G1 at a base rate of \$17.35 an hour, effective August 4, 2021. Motion Carried.

Moved-Seconded (Deibert-Rosenau) to bring the item off the table. Motion Carried.

Moved-Seconded (Deibert-Ewing) to approve Janelle Madsen as a full-time permanent Administrative Secretary G1 at a base rate of \$17.35 an hour, effective August 4, 2021. Motion Carried.

PAYMENT IN LIEU OF TAXES FUNDS: The Board discussed the Payment in Lieu of Taxes (PILT) that will be received in 2022. No action was taken.

JUVENILE JUSTICE GRANT: Moved-Seconded (Flanagan-Deibert) to approve and authorize the Chairman to sign the Juvenile Justice Reinvestment Initiative Fiscal Incentive Diversion Program Grant application and designate the Lawrence County Teen Court as the recipient of the grant if approved. Motion Carried.

AUTOMATIC SUPPLEMENTS:

FIRE PROTECTION: Moved-Seconded (Deibert-Ewing) to approve the automatic supplement of \$9,085.00 to the Fire Protection Hawk Expenses. Motion Carried.

POWDER HOUSE PASS CID: Moved-Seconded (Flanagan-Deibert) to consent by not objecting to the Powder House Pass CID plan for the collection/disposal of waste generated within the District pursuant to SDCL 7-25A-7(22)(e). Motion Carried.

SHERIFF:

VOICE PRODUCTS SERVICE, LLC.: Moved-Seconded (Deibert-Flanagan) to approve and authorize the Chairman to sign the Voice Products Service, LLC. five-year general maintenance agreement. Motion Carried.

PUBLIC SAFETY AND SERVICES CENTER PROJECT UPDATE: Brian Dean, Sheriff, reported on the Public Safety and Services Center committee meeting held at the Holiday Inn Spearfish on July 22, 2021. Dean reported that the delivery method for the project was discussed and of the committee members, 7 were in support of Construction Manager at Risk, 2 were in support of the Design Bid Build and 2 were split on the two delivery methods.

Commissioner Ewing stated he was in favor of the Design Bid Build as when the project is bid the verbiage of lowest responsible bidder is included. Ewing added that Steve Williams, Williams & Associates, would be willing to oversee the project.

Commissioner Sleep stated he was in favor of the Design Bid Build as two general managers would need to be paid if the Construction Manager at Risk was the chosen method.

Commissioner Deibert stated that no matter what delivery method was chosen, an owner's representative is needed. Deibert stated he is in favor of Construction Manager at Risk for the following reasons: guaranteed price, large contingency, ability to interview the construction manager and hire local providers that will be here and stand behind their warranty. Deibert added that a good contract is the key.

Moved-Seconded (Flanagan-Deibert) to use the Construction Manager at Risk delivery method. Aye-Deibert & Flanagan. Nay-Rosenau, Ewing & Sleep. Motion Failed.

Moved-Seconded (Flanagan-Ewing) to use the Design Bid Build delivery method. Aye-Flanagan, Ewing, Rosenau & Sleep. Nay-Deibert. Motion Carried.

Moved-Seconded (Deibert-Ewing) to hire Steve Williams, Williams & Associates, as the Owner's Representative for the Public Safety and Services Center. Motion Carried.

Moved-Seconded (Ewing-Deibert) to authorize the sale of certificates of participation and lock in the interest rate. Motion Carried.

Public Safety and Services Center Finance Committee will be meeting August 4, 2021 at 10:00 a.m. in the Lawrence County Commission room.

HIGHWAY:

FUEL QUOTES: The following fuel quotes were submitted as of July 27, 2021: **Spearfish Unleaded 1100 gallons:** (prices per gallon) CBH Cooperative –\$3.216*; Harms Oil Co-No Bid; MG Oil-No Bid. *Represents lowest quote awarded.

PERMITS:

WILSON: Moved-Seconded (Deibert-Rosenau) to continue the private approach permit for David Wilson to construct a private approach on the west side of Whitewood Valley Road until the next meeting. Motion Carried.

OMAN: Moved-Seconded (Deibert-Rosenau) to continue the private approach permit for Tabor Oman to construct a private approach on the east side of Whitewood Valley Road until the next meeting. Motion Carried.

EIX HOLDINGS, LLC.: Moved-Seconded (Rosenau-Deibert) incorporating by reference Lawrence County Resolution #2019-14 herein and further noting that the City of Spearfish has recently annexed additional land into the City including the area adjacent to Christensen Drive to be served by the permit to occupy County highway right-of-way that is the subject of this motion, to the extent the County has any remaining authority, if any, to do so, then to authorize the Chairman to sign the commercial approach permit for Eix Holdings, LLC. to construct a commercial approach on the east side of Christensen Drive located at 250 Christensen Drive. Abstain-Flanagan. Motion Carried.

VAST BROADBAND: Moved-Seconded (Rosenau-Flanagan) to follow the recommendation of Allan Bonnema, Highway Superintendent, and approve the permit to occupy County highway right-of-way for Vast Broadband located in Section 11, 12 & 13, T4N, R2E along County Road: Terry Summit Road. Abstain-Deibert. Motion Carried.

LETTING AUTHORIZATION BR CSBP (01) PCN 07NK: Moved-Seconded (Flanagan-Deibert) to approve and authorize the Chairman to sign the Letting Authorization for Project No. BR CSBP (01) PCN 07NK. Motion Carried.

LETTING AUTHORIZATION BR CSBP (01) PCN 07NL: Moved-Seconded (Flanagan-Deibert) to approve and authorize the Chairman to sign the Letting Authorization for Project No. BR CSBP (01) PCN 07NL. Motion Carried.

COUNTY OWNED LOT: Bruce Outka, Deputy State's Attorney, reported that an email was received from Paul Sullivan in reference to a County owned lot off of Boulder Creek Road. Outka reported that the Highway Department and Invasive Species Management Department mowed the right-of-way and sprayed the weeds on the County owned lot.

NORTH ROCHFORD ROAD OVERLAY PROJECT-PHASE #4: Robert Roberts, Simon Contractors of SD, Inc., was present to ask for an extension for the North Rochford Road Overlay Project-Phase #4 due to delays with other projects.

Moved-Seconded (Flanagan-Ewing) to change the completion date to September 1, 2021.

Commissioner Deibert asked if the contractor's agreement contained a penalty clause, and if so, whether a penalty was to be assessed?

Commissioner Ewing commented that it has been an unusual summer for everyone in the construction business.

Flanagan-Ewing withdrew the motion.

Moved-Seconded (Flanagan-Deibert) to extend the completion date until September 1, 2021. Penalties will begin on the day the project is started and end on the day of completion. Aye-Flanagan & Deibert. Nay Ewing, Rosenau & Sleep. Motion Failed.

Moved-Seconded (Rosenau-Ewing) to extend the completion day until September 1, 2021 due to unusual working circumstances in 2021. Aye-Rosenau, Flanagan, Ewing & Sleep. Nay-Deibert. Motion Carried.

PLANNING & ZONING:

CHANGE OF ZONING #344/KRUTHOFF: First Reading and public hearing was held on COZ # 344 APPLICANT: Richard Kruthoff LEGAL DESCRIPTION: Govt Lot 4 ex pt Lot h-4 (.78), Lot H-5 (1.75), Tract A (5.20), Lot B of Lot 4 (5.14), Lot CH-2 (1.39) & ROW (.69) TN of Lot 4 (5.14), Lot CH-2 (1.39 and ROW in Section 6 & 31, T7N, R2E (legal description shortened) VICINITY LOCATION: Corner of Homestake Road & Hillsvie Road SUMMARY: COZ from A-1 to PF for subdivision of 3 lots ZONING: A-1 ACREAGE: 24.98 acres.

Amber Vogt, Planning & Zoning Administrator, presented her staff report.

No public input was voiced and the hearing was closed.

Commissioner Flanagan questioned why the request for re-zone was for Park Forest rather than Rural Residential. Vogt stated that Park Forest is requested as property adjacent to the subject piece is zoned similarly.

Commissioner Deibert asked about any implications to the City of Spearfish transportation plan and whether additional right-of-way was requested. Vogt stated that Allan Bonnema, Highway Superintendent is requesting the additional right-of-way.

Commissioner Deibert noted that no matter what action is taken on the rezone request, a subsequent request for an approach permit is a separate matter requiring separate consideration and approval – granting an approach permit is not automatic.

Second Reading scheduled: August 17, 2021 at 9:00 a.m.

CHANGE OF ZONING #341/KISSACK/PTTMAN: Second Reading was held on COZ #341. APPLICANTS: Kissack/Pittman LEGAL DESCRIPTION: SE ¼ of the NE ¼; and the SW ¼ of the SW ¼ (except Fremont, Elkhorn and Missouri Valley RR CO. ROW) and E ½ of the SE ¼ Except Lots 1 in SE ¼ SE ¼ of Section 8. T6N, R4E VICINITY LOCATION: Hwy 34 SUMMARY: COZ from A-1 to A-2 for subdivision ZONING: A-1 ACREAGE: 149.91 acres

Amber Vogt, Planning & Zoning Administrator, presented her staff report.

Considering that the subject property is within the area proposed to be annexed by the City of Whitewood, Commissioner Deibert asked the applicant what was his position on the annexation? Mike Pittman stated he would accept the annexation.

Commissioner Ewing commented that with questions outstanding about the proposed annexation he would like the matter continued to a future meeting.

Commissioner Deibert stated that while attending the Commission meeting in Whitewood the Mayor stated that the plan is to move forward with the current proposed annexation dated July 12, 2021.

Commissioner Deibert asked Mr. Reynolds, if the COZ were denied, would he purchase the property. Reynolds stated that they would not.

Guy Carr, 351 S Heptner Road Rozette WY, stated that the offer is contingent on approval of the COZ.

Moved-Seconded (Deibert-Ewing) to continue COZ #344. APPLICANTS: Kissack/Pittman LEGAL DESCRIPTION: SE ¼ of the NE ¼; and the SW ¼ of the SW ¼ (except Fremont, Elkhorn and Missouri Valley RR CO. ROW) and E ½ of the SE ¼ Except Lots 1 in SE ¼ SE ¼ of Section 8. T6N, R4E VICINITY LOCATION: Hwy 34 SUMMARY: COZ from A-1 to A-2 for subdivision ZONING: A-1 ACREAGE: 149.91 acres until August 17, 2021 to allow for comments from the City of Whitewood on the proposed annexation. Motion Carried.

AMENDED MASTER PLAN/KEATING RESOURCES: First Reading and public hearing was held on the amended master plan APPLICANT: Keating Resources VICINITY LOCATION: Deer Mt and Terry Peak Summit SUMMARY: Land Use Sketch for Deer Mountain Club - Amendment to original Mystic Miner PUD Zoning District ZONING: PUD.

Commissioner Deibert declared a conflict, but would be available for questions.

Amber Vogt, Planning & Zoning Administrator, presented her staff report.

Oz Enderby, 21375 Mule Deer Drive/Deer Mountain Sanitary District, reported that the Sanitary District has been working with Keating Resources to work through issues related to the water system.

Eirik Heikes, President Terra Sites Design, was present to answer questions about the plan.

Randy Deibert, Professional Mapping and Surveying, LLC., stated that the revised plan includes an additional 50 acres purchased from Wharf Resources. Deibert summarized the new plan as more property with less density.

No other public input was voiced and the hearing was closed.

Second Reading scheduled: August 17, 2021 at 9:30 a.m.

ANNUAL REVIEW:

HOMESTAKE C.U.P. 124 AND 144 & LAC MINERALS - RICHMOND HILL MINE

C.U.P. 116, 125 AND 202: Mark Tieszen, Environmental Manager for Homestake/Lack Minerals Mines was present to review the 2020 Mine Activities Report.

PUBLIC DEFENDER: Amber Richey, Public Defender, was present to discuss the client meeting area and storage area.

ITEMS FROM THE COMMISSIONERS: Moved-Seconded (Deibert-Rosenau) to follow the recommendation of the Safety Committee and directed employees to discontinue use of the windows for anything other than emergency egress. Motion Carried.

Commissioner Deibert, Commissioner Sleep and Bruce Outka, Deputy State's Attorney, will represent the County for purposes of completing the Forest Plan Amendment virtual stakeholder assessment.

Commissioner Deibert reported that the Multiple Use Coalition and Black Hills Council of Local Government reached out to the Forest Service to be a part of the UTV group. Deibert stated that the Multiple Use Coalition has offered to lead the group.

BUDGET: The board reviewed the 2022 preliminary budget, meeting with the Library Board, Amber Vogt, Planning & Zoning Administrator, Allan Bonnema, Highway Superintendent, Brian Dean, Sheriff and Wade Huntington, Department of Health.

The board discussed eliminating \$1.4 million from the Road & Bridge budget associated with the proposed paving projects for 2022.

The 2022 Preliminary Budget was set and a Public Hearing will be held on September 7, 2021 at 8:45 a.m. for consideration of the adoption of the 2022 Annual Budget.

BILLS: Moved-Seconded (Ewing-Rosenau) to approve payment of the following payroll and vouchers listed below for expenditures for insurance, professional services, publications, rentals, supplies, repairs, maintenance, travel, conference fees, utilities, furniture and equipment drawn on the proper funds and various departments. Motion Carried.

Payroll: Comm-\$7,038.11; Aud-\$11,646.10; Treas-\$12,750.70; States Atty-\$16,766.40; Pub Def-\$13,255.24; Gen Govt Bldg-\$9,453.40; Equal-\$15,207.29; Rod-\$8,384.85; Vso-\$1,736.20; Ist-\$9,675.86; Sher-\$53,773.16; Jail-\$28,367.89; Coroner-\$301.16; 24/7-\$167.64; Emerg Mgmt-\$4,660.01; E911-\$15,821.38; Highway-\$46,954.20; Weed-\$9,949.20; P&Z-\$6,294.78; **Bills:** Fitzgerald, John-\$42.00; Larson, Rene-\$380.08; Kellogg, Susan-\$251.56; A To Z Shredding-\$31.26; A&B Business, Inc Solutions-\$867.44; A&I Distributors-\$2,141.93; Ace Hardware Of Lead-\$94.54; American Family Life-\$2,421.96; Avera Health DbA Aess-\$800.00; BH Occupational Medicine Corp-\$140.00; BH Pest Control-\$215.00; Black Hills Chemical-\$918.55; Black Hills Energy-\$15,138.06; Bomgaars Supply-\$15.98; Butler Machinery Co-\$50.34; Cbh Cooperative-\$8,795.60; Centurylink-\$338.17; City Of Rapid City-\$1,400.00; Clauser Machine Works-\$455.00; Clinical Lab Of BH-\$2,006.00; Cornelius, Kaylee-\$780.00; Dakota Equipment Rental-\$98.98; Deadwood Recreation Center-\$638.00; Delta Dental Of South Dakota-\$7,755.54; Dept Of Hlth Lab Services-\$30.00; Dept Of The Treasury-\$63,405.44; Diamond Pharmacy-\$549.94; Dustbusters-\$56,030.52; EpcO-\$393.00; Execuline Business Systems-\$495.00; Galls-\$470.16; Geigle, Jd-\$14.00; Godfrey's Brake Serv-\$707.57; Great Western Tire-\$157.30; Grimm's Pump&Industrial Supply-\$183.00; Hilpert & Hale Prof-\$3,135.90; Hilt Construction-\$200.00; Interstate Batteries-\$11.80; Johner Gravel-\$87,397.38; Karen Paige Hunt, Prof-\$4,516.14; Kimball-Midwest Co-\$227.56; Kinney Law-\$515.18; Knecht Home Center-\$11.98; Kosel, Joseph-\$4,158.84; Lead, City Of-\$109.09; Mack's Auto Body-\$5,868.40; McLeod's Office Supply-\$189.52; Midcontinent Communications-\$115.28; Montana Dakota Utilities-\$200.56; Monument Health Network-\$685.00; Monument Health Rc Hospital-\$461.00; Nalco Company-\$297.70; Northern Hills Rec Center-\$137.00; Nutrien Ag Solutions-\$1,054.00; Office Of Child Support-\$401.54; PcsO Addiction Treatment Serv-\$226.00; Pennington Co Jail-\$489.80; Pharmchem-\$399.70; Powerplan-\$775.28; Rabe Elevator-\$2,605.86; Reserve Account-\$6,000.00; Sacrison Asphalt-\$87.40; Sara J Fitzgerald-\$270.00; Schlingen Law Firm-\$1,556.05; Sd Retirement System-\$64,739.40; Sdrs Supplemental Retirement-\$3,022.50; Secretary Of State-\$30.00; Semerad, Sandra-\$34.00; Servall Towel & Linen-\$598.49; Simon North Region-\$8,489.44; Sonnel Technologies-\$2,728.47; Spearfish Auto Supply-\$253.06; Spearfish Rural Fire-\$17,502.00; Streicher's-\$124.50; Sysco Montana-\$2,133.46; Thomson Reuters-West-\$299.18; Triple K Tire & Repair-\$725.39; Twin City Hardware & Lumber-\$2,185.79; Tyler Technologies-\$252.00; Vast Broadband-\$1,813.50; Verizon Wireless-\$107.41; Victims Of Violence-\$1,640.00; Wellmark Blue Cross-\$107,306.90; Wells Fargo Business Card-\$7,537.21; Wells Plumbing & Farm Supply-\$632.24; Western Communication-\$144.00; Western Hills Humane Society-\$2,000.00; Western Sd Juvenile Serv-\$14,560.00; White Drug-\$201.98; White's Canyon Motors-\$414.38; Yellowrobe, Luke-\$1,500.00; **Witness & Jurors:** \$1,580.70.

ADJOURN: 2:21 p.m. There being no further business, Chairman Sleep adjourned the meeting.
Motion Carried.

Date Approved

Richard Sleep, Chairperson

ATTEST:

Brenda McGruder, Auditor